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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,020	02/26/2002	Athanasios Nikolaou	22130	5901

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EXAMINER

LOPEZ, CARLOS N

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 04/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/070,020

Applicant(s)

NIKOLAOU, ATHANASIOS

Examiner

Carlos Lopez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Specification***

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or  
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). The

specification lacks a plurality of terms recited in claims 1-13 that are not given proper antecedent basis in the specification. For example, In claim 1 the specification fails to provide proper antecedent basis for terms such as "electromagnetic emission covering wide ranges of frequencies", and "determined and not determined multitude of independent electromagnetic waves emission of different attribute frequency value".

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 4-10, and 12-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Williams (US 6,135,121). Williams discloses a method for reducing the content and prevention of carcinogenic nitrosamines in tobacco plants (Abstract). The disclosed method subjects the plant to microwave radiation at appropriate times of the curing cycle (abstract). The claimed limitation of "tobacco plant products (1) receives electromagnetic energy from a synthetic electromagnetic emission covering wide ranges of frequencies" is met by Williams in Col. 3 ln. 41-42, which teaches of providing microwave radiation with a frequency range of 900 to about 2500Mz. The microwave emissions occur for a period of 1s and preferably from about 10s to 5m (Col. 3, Ins. 43-44) which reads on the claimed "determined...independent wave emissions of different attribute frequency". Since the microwave emissions are only applied for periods of 1s and/or from about 10s to 5m it is thus chronically interrupted and its output power is maximum when the microwaves emission occurs and zero when there is no emissions.

As for claim 2, the emissions would operate with a symmetrical duration since its duration is predetermined.

As for claim 4, power of the emissions may range from 600 to about 1000 watts (Col. 3, Ins. 47). Additionally since the emissions have the claimed frequency range it is inherent that it will coincide with the natural frequency of each atomic or molecular system.

As for claim 5, the claimed range bounds William's frequency range of 900 to about 2500Mz.

As for claim 6, microwaves may be used (Col. 14, Ins. 12-15).

As for claim 7, the emission may be provided by more than one device such as a multimode cavities (microwave ovens) (Col. 14, Ins. 32-34).

As for claim 8, the microwave emissions may be garnered using a commercial microwave with a modular device (Col. 14, Ins. 16-24).

As for claim 9, the multimode cavities simultaneously provide emissions.

As for claim 10, in view that Williams meets the claimed microwave frequencies and the duration of the applied microwaves it is inherent that there is no significant increase in the temperature the tobacco being treated.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams (US 6,135,121). As noted above Williams treats tobacco with electromagnetic waves for duration of 1s and preferably from about 10s to 5m (Col. 3, Ins. 43-44) but is silent teaching the interruption duration. However, It would be obvious to one of ordinary skill in the art at the time the invention was made to have minimized the downed time that tobacco was not being treated in order to increase production.

In regards to claim 13, In view that Williams discloses treating tobacco with electromagnetic waves to reduce the content and prevention of carcinogenic nitrosamines, it would be obvious to one of ordinary skill in the art that the type tobacco

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being treated and treatment time are obvious considerations for maximizing the removal of carcinogenic nitrosamines.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References A-C and N in PTO-892 have been cited to show the state of the art. More specifically the above references disclose electromagnetic treatment of tobacco but fail to disclose a "wide ranges of frequencies" of the wave emissions treating tobacco.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lopez whose telephone number is (703) 605-1174. The examiner can normally be reached on Mon.-Fri. 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on (703) 308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7718 for regular communications and (703) 305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

  
STEVEN P. GRIFFIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700

C.L  
April 14, 2003